

Excise Duty Memoranda Series

4.1.2 Small Producers of Wine

April 2004
Revised March 2005*


Overview	Under the <i>Excise Act, 2001</i> (the “Act”) a small producer of wine is required to obtain a wine licence and to file monthly returns, but is not required to pay excise duty. This memorandum explains how to determine whether or not a person is a small producer of wine.
Disclaimer	The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or contact any Canada Revenue Agency (CRA) tax services office for additional information.
[Proposed amendments]	This memorandum reflects proposed amendments to the Act announced by the Minister of Finance on June 24, 2003. [Where information reflects proposed amendments, the information is enclosed in square brackets.] Any commentary in this memorandum should not be taken as a statement by the CRA that such amendments will in fact be enacted in their current form.

*Revised paragraphs are indicated with a side bar in the margin.

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La version française de ce document est intitulée *Petits producteurs de vin*.



Small wine producers

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| Meaning of "small producer" of wine para 135(2)(b) | 1. [Wine licensees are considered to be "small producers" of wine for a fiscal month in a particular fiscal year if: <ul style="list-style-type: none">• their total sales of wine packaged in Canada during the previous fiscal year did not exceed \$50,000, and• their total sales of wine packaged in Canada during the particular fiscal year, before the fiscal month, did not exceed \$50,000.] |
| Meaning of "produce" s 2 | 2. To "produce" wine means to bring it into existence through fermentation. |
| When is wine produced | 3. For excise duty purposes, wine will be considered produced at the point where it has completed initial fermentation. At that time, wine licensees should determine the volume of the wine produced and report that amount on their monthly form B265, <i>Excise Duty Return – Wine Licensee</i> , under the section "Additions to Bulk Inventory", on the line Produced in the month. |
| Excise duty relieved ss 135(2) | 4. Excise duty is not imposed on wine that is produced by and packaged by, or on behalf of, a wine licensee who qualifies as a small producer. However, if a wine licensee who qualifies as a small producer packages wine that they did not produce (e.g. bulk wine produced by another wine licensee under contract or imported wine), that wine is subject to excise duty.

5. Wine that is produced and packaged by a licensee at any time during the period the licensee qualifies as a small producer will not be subject to excise duty, regardless of when it is sold. |
| Wine licence required | 6. Every small producer of wine is required to have a wine licence, and is required to fulfil all of the obligations associated with holding that licence, such as maintaining adequate books and records and filing monthly returns, except that they are not required to pay excise duty on wine they produce and package.

7. Additional information relating to the requirements and obligations of producers and packagers of wine is provided in Excise Duty Memorandum 4.1.1, <i>Producers and Packagers of Wine</i> . |

Transitional period

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| <i>Small Manufacturers or Producers Exemption Regulations</i> para 2(1)(a) | 8. Before July 1, 2003, wine producers whose value of wine that they produced and sold, or produced for their own use, did not exceed \$50,000 per calendar year were not required to operate under an excise tax licence and were exempt from paying excise tax on wine they produced. |
| Transitional period ss 309(2) | 9. For a transitional period from July 1, 2003 to June 30, 2004, the \$50,000 small producer threshold will be calculated on the same basis as it was under the former excise tax. To facilitate a smooth transition to the <i>Excise Act, 2001</i> regime, the CRA will permit producers of wine to continue to base this calculation on the calendar year during this transitional period. |

- Based on calendar year sales
10. During the transitional period, if a wine licensee's sales in each of its previous and current calendar years do not exceed the \$50,000 small producer threshold, the wine the licensee produces and packages during the current fiscal month will be exempt from excise duty.
11. However, if a wine licensee's sales of wine exceed the threshold during a calendar year before the current fiscal month, the licensee will no longer qualify as a small producer and all wine the licensee produces and packages beginning in that fiscal month will become subject to excise duty.

Post-transitional period

- Based on fiscal year sales
12. Effective July 1, 2004, the \$50,000 small producer threshold calculation will be based on the fiscal year of the licensee. If, as of a particular fiscal month, neither a licensee's previous fiscal year's sales nor the current fiscal year's sales, before that fiscal month, exceed \$50,000, the wine produced and packaged in that fiscal month will be exempt from excise duty.
13. However, if a wine licensee's sales of wine during the fiscal year before the current fiscal month exceed the threshold, the licensee will no longer qualify as a small producer and all wine the licensee produces and packages beginning in that fiscal month will become subject to excise duty.

Calculation of the \$50,000 small producer threshold

- Total sales
14. Although the \$50,000 small producer threshold calculation is based on a licensee's total sales of wine packaged in Canada, it is the wine that is produced and packaged (not sold) in a fiscal month that is exempt from excise duty.
- Calculation must include all sales
15. The \$50,000 small producer threshold calculation must include all sales the licensee makes of wine packaged in Canada, including sales upon which excise duty has been exempted or relieved under the Act (e.g., for export, sale to duty free shops, or delivery for use as ships' stores).
- Exception - bulk wine
16. Since bulk wine is not subject to excise duty under the Act, the small producer threshold calculation does not include sales of bulk wine.

Sale price of wine

- Inclusions
17. For purposes of calculating total sales of wine, the sale price of wine includes the following:
- amounts charged as price, plus any excise tax (before July 1, 2003) and excise duty (on or after July 1, 2003) payable;
 - amounts that the purchaser is liable to pay the licensee by reason of, or in respect of the sale, including subsequent amounts;
 - any amounts charged to the purchaser for packaging materials and containers; and
 - amounts charged to the purchaser for contract wine production and/or packaging.

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- Exclusions
18. The sale price of wine does not include:
- the 7% Goods and Services Tax (GST);
 - the 15% Harmonized Sales Tax (HST);
 - provincial taxes;
 - cash discounts taken; or
 - volume discounts and rebates.
- GST/HST inclusive figures
19. For purposes of the small producer calculation, a licensee who sells wine on a GST-included basis may deduct the GST from the sales by multiplying them by 7/107 or 0.0654 after excluding any provincial taxes that may apply. A licensee who sells wine on an HST-included basis may deduct the HST from the sales by multiplying them by 15/115 or 0.1304.

Monitoring monthly sales

20. Small producers of wine are responsible for monitoring their sales records to determine if they continue to qualify as small producers of wine.
21. The Appendix to this memorandum contains two examples of calculating the \$50,000 small producer threshold, one based on a calendar year and one based on a fiscal year.

Exceeding the \$50,000 small producer threshold

- When a licensee ceases to be a small producer
22. A wine licensee who exceeds the \$50,000 small producer threshold will no longer qualify as a small producer and wine produced and packaged after the fiscal month during which the licensee first exceeded the threshold will be subject to excise duty.
23. At a minimum, wine produced and packaged for the remainder of that fiscal year (Year 1) and the next fiscal year (Year 2) would be subject to excise duty. The wine licensee could qualify for the small producer exemption again in Year 3 if the \$50,000 small producer threshold is not exceeded in Year 2.

Warehousing wine

- Imposition – timing ss 135(1) and (3)
24. Excise duty is imposed on wine that is packaged in Canada at the time it is packaged. Unless the wine is exempt from excise duty (e.g., because it was produced and packaged by a small producer) or excise duty is deferred by placing the wine into an excise warehouse, it is payable at that time by the wine licensee who was responsible for the bulk wine.
- Excise warehouse licence ss 19 and ss 135(3)
25. An excise warehouse licence allows the wine licensee to defer the payment of excise duty until the non-duty-paid packaged wine is removed from the excise warehouse for entry into the duty-paid market. A wine licensee who qualifies as a small producer does not need an excise warehouse licence to hold the wine that is exempt from excise duty because there is no duty payable on this wine.

26. However, a small producer may have an excise warehouse to defer the duty on wine that does not qualify for the exemption—that is wine that the small wine producer does not produce but packages only (e.g. imported wine). The licensee may store excise duty exempt wine in that same excise warehouse but the books and records must clearly distinguish between products subject to duty and those that are not. Also, wine that is exempt of excise duty should not be reported as an addition to inventory on the excise warehouse licensee’s B262 monthly return.

27. If the wine licensee exceeds the small producer’s threshold, the licensee must pay excise duty on all wine they package in subsequent months at the time of packaging unless the wine is immediately entered into an excise warehouse.

28. Additional information on excise warehouses is available in Excise Duty Memorandum 8.1.1, *Excise Warehouses*.

Contracting out bottling activities

29. A wine licensee may contract out their bottling to another wine licensee. The responsibility for the wine and the excise duty remains with the wine licensee who owns the wine. If the wine licensee who produced the wine is a small producer, the wine being packaged will be exempt from excise duty.

Keeping records and filing returns

Keeping records
ss 206(1)

30. Every small producer of wine is required to maintain all records that are necessary to determine whether they are in compliance with the Act.

31. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, *General Requirements for Books and Records*.

Filing returns
s 160

32. All wine licensees must file monthly form B265, *Excise Duty Return – Wine Licensee*. A small producer will report “NIL” on lines 4 to 15 of page 1 of the return for all wine that they produced and packaged. If the small producer packages wine that is not exempt (e.g. wine that they did not produce) and that wine is not immediately entered into an excise warehouse, then the small producer will report its excise duty liability on page 1 of the return.

33. Qualified small producers must complete the production and inventory volumes on page 3 of their return and indicate at the bottom of that page, in the appropriate box, that they are still small producers.

34. Additional information on how to complete form B265 and when and where to file the return is available in Excise Duty Memorandum 10.1.6, *Completing an Excise Duty Return – Wine Licensee*.

Appendix – Calculating the threshold

Example 1 –
transitional period

35. This example covers the transitional period of July 1, 2003 to June 30, 2004, and the threshold is calculated on a calendar year basis. The wine licensee started operations in November 2002; the licensee’s fiscal year is from November 1 to October 31; and the licensee’s fiscal months are calendar months.

Based on calendar year
sales

Calendar month	Sales	Cumulative sales
November 2002	\$ 1,500	\$ 1,500
December 2002	\$ 1,500	\$ 3,000
New calendar year		
January 2003	\$ 5,000	\$ 5,000
February 2003	\$ 3,000	\$ 8,000
March 2003	\$ 3,000	\$ 11,000
April 2003	\$ 4,000	\$ 15,000
May 2003	\$ 4,000	\$ 19,000
June 2003	\$ 4,500	\$ 23,500
July 2003	\$ 5,500	\$ 29,000
August 2003	\$ 6,000	\$ 35,000
September 2003	\$ 6,000	\$ 41,000
October 2003	\$ 6,500	\$ 47,500
November 2003	\$ 7,000	\$ 54,500
December 2003	\$ 5,000	\$ 59,500
New calendar year		
January 2004	\$ 4,000	\$ 4,000
February 2004	\$ 6,000	\$ 10,000
March 2004	\$ 6,500	\$ 16,500
April 2004	\$ 11,000	\$ 27,500
May 2004	\$ 12,500	\$ 40,000
June 2004	\$ 13,000	\$ 53,000

36. For the fiscal month of July 2003, the licensee is considered to be a small producer because the 2002 calendar year sales and current calendar year (2003) sales did not exceed the \$50,000 threshold. The licensee exceeds the threshold during November 2003 and therefore ceases to qualify as a small producer as of December 1, 2003.

37. The licensee files monthly excise duty returns but is not required to pay excise duty on wine produced and packaged up to November 30, 2003. All wine the licensee packages on or after December 1, 2003, will be subject to excise duty. As well, for the period January 1, 2004 to June 30, 2004, the licensee will not qualify as a small producer because the 2003 calendar year’s sales exceeded the \$50,000 threshold.

Example 2 –
post-transitional period

38. This example covers the period from July 1, 2004 to June 30, 2005, when the threshold must be calculated on a fiscal year basis. The wine licensee started operations in November 2002; the licensee's fiscal year is from November 1 to October 31; and the licensee's fiscal months are calendar months.

Based on fiscal year
sales

Fiscal month	Sales	Cumulative sales
November 2002	\$ 1,500	\$ 1,500
December 2002	\$ 1,500	\$ 3,000
January 2003	\$ 2,000	\$ 5,000
February 2003	\$ 3,000	\$ 8,000
March 2003	\$ 3,000	\$ 11,000
April 2003	\$ 4,000	\$ 15,000
May 2003	\$ 4,000	\$ 19,000
June 2003	\$ 4,500	\$ 23,500
July 2003	\$ 5,500	\$ 29,000
August 2003	\$ 6,000	\$ 35,000
September 2003	\$ 6,000	\$ 41,000
October 2003	\$ 8,000	\$ 49,000
Total 2002/2003		\$ 49,000
New fiscal year		
November 2003	\$ 7,000	\$ 7,000
December 2003	\$ 5,000	\$ 12,000
January 2004	\$ 4,000	\$ 16,000
February 2004	\$ 6,000	\$ 22,000
March 2004	\$ 6,500	\$ 28,500
April 2004	\$ 11,000	\$ 39,500
May 2004	\$ 12,500	\$ 52,000
June 2004	\$ 13,500	\$ 65,500
July 2004	\$ 14,000	\$ 79,500

39. For the fiscal month of July 2004, the licensee will evaluate the 2002/2003 fiscal year's sales and the 2003/2004 fiscal year's sales up to the end of June 2004 (i.e., \$65,500) to determine if the small producer threshold has been exceeded. The 2002/2003 fiscal year's sales did not exceed the \$50,000 threshold. However, sales from November 2003 through to the end of May 2004 did exceed the \$50,000 threshold; therefore, all wine the licensee produces and packages on or after June 1, 2004, will be subject to excise duty.

40. The licensee will not qualify as a small producer during the 2004/2005 fiscal year, because sales for the 2003/2004 fiscal year exceeded the \$50,000 threshold. Therefore, all wine the licensee produces and packages in the 2004/2005 fiscal year will be subject to excise duty.

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41. For the 2005/2006 fiscal year, the licensee will evaluate the 2004/2005 fiscal year's sales. If the total sales for that period do not exceed \$50,000, the licensee will again qualify as a small producer for the month of November 2005 and will evaluate their status each month thereafter. If the total sales for that period do exceed \$50,000, all wine the licensee produces and packages during the 2005/2006 fiscal year will be subject to excise duty.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CRA Web site at www.cra.gc.ca/tax/technical/act2001-e.html.